



**CITY OF LONG LAKE
PLANNING COMMISSION MEETING MINUTES
July 13, 2021**

CALL TO ORDER

The meeting was called to order at 6:30 pm by Chair Adams.

Present: Chair: Roger Adams; Commissioners: John Hughes, Virginia See, Anita Secord, and Steve Keating; City Council Member/Liaison: Mike Feldmann

Staff Present: City Administrator: Scott Weske; Planning Consultant: Hannah Rybak; Acting City Engineer: Shelly Hanson

Absent: None

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

APPROVE AGENDA

Commissioner Keating moved to approve the agenda as presented. Commissioner Secord seconded. Ayes: all.

CONSENT AGENDA

- A. Minutes of the April 13, 2021 Planning Commission Meeting

Commissioner Keating moved to approve the Consent Agenda as presented. Commissioner See seconded. Ayes: all.

OPEN CORRESPONDENCE

No one was in attendance to address the Planning Commission during Open Correspondence.

BUSINESS ITEMS

- A. Public Hearing: Planning Case #2021-03/Request for Approval of a Variance for an Increase in Impervious Surface Coverage; a Variance from the Side Yard Setback Requirement for Outdoor Restaurant Seating; and a Conditional Use Permit Amendment to Increase Outdoor Restaurant Seating at Birch's on the Lake, Located at 1310 Wayzata Boulevard W (Applicant: Brennan Greene/Hunt Greene LLC)

City Planner Rybak reviewed the property location and noted that the property is zoned B3, Lakeshore Business, and is guided for Commercial use in the 2040 Comprehensive Plan. She reported that Birch's is requesting approval of an impervious surface coverage variance to allow additional hardcover for a patio and also a walkway/steps down to the lake. They are also requesting a setback variance and an amendment to their CUP for additional outdoor seating. She explained that the construction on the patio had already begun prior to the City becoming aware of

the project. Birch's has indicated that they were not aware that it needed a permit and noted that they had not yet begun construction of the steps and walkway. The patio is proposed to house three to 24 restaurant seats and the intent is to fence it in so it may be considered part of the liquor licensed premises. The patio is located two feet from the side property line that is shared with the Tealwood neighborhood. A rock treatment area that is located on the east side of the patio appears to encroach on the Tealwood property, but was not shown on the survey, so staff cannot confirm this. Last summer, during COVID-19, because of the desire for people to spread out, they placed some picnic tables in the location where the patio is proposed. People could get their take out and eat it in that area, but there was no dining service. She added that now they would like to complete constructing the patio to offer dining service and would call the area 'The Woods'. The private dining room area in the restaurant has been converted into a takeout staging type area and will continue to be used for that, which means they have a loss of 24 seats from that use. The number of seats proposed would not cause them to exceed the allowable amount for their parking variance. She explained that the three requests for Planning Commission consideration are: an amendment to the existing Conditional Use Permit for outdoor restaurant seating; a variance of 23 feet where 25 feet is required for setback; and a variance to allow impervious surface coverage of 51.19%. She stated that they have submitted updated plans that show a rain garden which is something the Watershed District had asked for and believes it will change the coverage amount to 51.22%.

Acting City Engineer Hanson reviewed the engineering comments regarding the requested increase in hardcover. She noted that the proposed walkway and stairs will actually help reduce the erosion on the site, so that part of the proposal would be a good thing and staff could support that request. Staff is not recommending approval of the hardcover on the patio. She reviewed the need for on-site treatment to ensure no increase in offsite peak discharge for two, ten and 100 year events and noted that they have yet to receive those calculations. For construction of the walk, stoop, and stairs, staff is also recommending that it be completed with the smallest amount of bare ground exposed for the shortest possible time, and recognizes the necessity for ground cover and erosion control.

Rybak reviewed the variance criteria in relation to the variance requests as well as staff's findings for the CUP amendment for consideration and explained the staff recommendation to approve the reduced request for additional impervious surface coverage only for the steps and walkway, but recommend denial of the requests for a setback variance for the patio and the conditional use permit for expanded outdoor seating. The MnDNR sent an e-mail stating that they would not make any formal comments, but would have concerns with additional impervious surface coverage being added to the parcel. The City also received five emails in opposition of this request.

Commissioner See asked about the steps and whether the intent was for them to go all the way down to the lake.

Rybak confirmed that would be correct.

Commissioner See stated that it appears that they did not really want people going down to the lake on the eastern side of the building which is why they had steps on the western side of the building.

Rybak commented that she believes it has something to do with the rowing club using it and noted that the applicant can probably explain that request for the stairs on that side of the building.

Chair Adams questioned whether the parking lot constitutes a principal use.

Rybak responded that the parking lot has different setbacks and noted that the principal use is the restaurant itself and parking is an accessory use.

Chair Adams asked if staff would have viewed this any differently if these were permeable pavers.

Rybak replied that she is aware that the Watershed District and the MnDNR are moving away from acknowledging pervious pavers as fully pervious, because many times people do not maintain them and after a number of years they essentially become impervious.

Chair Adams opened the public hearing.

Brennan Greene, owner, brewmaster, CFO and maintenance man for Birch's on the Lake, stated that this has been a long process but noted that things have gone even better than they had hoped for the business. He showed some photos of the area and noted that the hill is 20 feet tall between the Birch's commercial and Tealwood residential areas and there is also a six foot fence on top of the hill. He explained the purpose for the added rain garden required by the Watershed District would be to capture run off from the roof, the hill, and the patio. He feels the amount of additional hardcover that they are proposing is fairly insignificant and would be more than addressed by catching it all in the large rain garden. He indicated that this past year has been incredibly difficult for their business and noted that they had to close their second location. They currently have 132 employees and they would have liked to have built this patio last year, however they could not afford to do so. He reminded the Commission that Governor Walz had instructed cities to allow additional variances for additional outdoor restaurant seating so people could spread out more. He stated that he feels current operations are just the new normal, COVID-19 is not over, and they need additional space in order to be able to space people further apart. He noted that having the patio does not actually increase the number of seats they have available, it just helps people spread out as much as possible. He added that having a giant natural wall is sufficient separation between the adjacent residential area and their property. They had begun building the patio because they had a flat area and he explained that he was not aware he needed to come to the City because he thought it was just landscaping. As part of the project work, their landscaper accidentally put a bit of the rock garden onto Tealwood's property that could easily be moved fully onto their property; however back in April, Joe Kochenderfer from Tealwood told him not to do any additional work until he had contacted the City. He stated that this is an expensive project and it only makes sense if they can have people out on the patio. They are not planning to add any lighting to the patio or have music, nor will this area be used during the winter months. He assured the Commission that they are willing to amend the hours of use to something that the City thinks is more prudent. He asked that the Commission allow them to use their patio that has been partially built. He stated that if the patio is not approved, he does not think they will move forward with the steps and walkway portion of the project.

Commissioner Secord asked if the rain garden was already in place.

Mr. Greene stated that it is not yet there and noted that the only thing that exists is the patio.

Michael Pan, 1272 Tealwood Place, stated that he had submitted a letter to City Clerk Moeller this morning. He showed the two homes that overlook the area where Mr. Greene stated that there is a huge hill that is a buffer. He noted that at night, you can see the lights from Birch's and residents are very concerned that this would be a lighted patio with live music. He shared that one of the residents in Tealwood can actually see the television inside of Birch's. He stated that the hill is a berm but the fencing is only in the middle and does not extend all the way down to the lake. He

pointed out that there is additional hardcover for a fire pit that has some seating around it and it is used quite often, year round. He mentioned that he thinks the rain garden collection area is a great idea but believes there are rowing shells in that area right now and asked where those would go if the rain garden was installed. He stated that residents of Tealwood are happy to see Birch's there and wish them well, but also wish that this would have been discussed before they built it. He stated that the Tealwood HOA is adamantly opposed to the patio and requests that it be removed.

Mr. Greene stated that there is a fire pit but there is no hardcover associated with the fire pit.

Erik Ejups, 1276 Tealwood Place, spoke to indicate that he resides in the end unit that is closest to Birch's, and explained that they are actively trying to add more blockage so they cannot see Birch's.

Jennifer Bengston, 1272 Tealwood Place, gave some history on the property and explained that when Tealwood was originally built in the late 1970s or early 1980, that lot that they are pushing up against was supposed to have three more homes. They were given the opportunity years later, because of the real estate market at the time, for the HOA to purchase the lots on either side of the townhomes in order to keep more green space on the lake. She stated that they did not buy that property to have a restaurant pushing up against them with noise levels, more foot traffic, and more erosion.

Anthony Quill, 305 Glenmoor Lane, stated that there has been a parking concern voiced, at least at the Council level. They are actually in support of this proposal, do not think it is a major change, and added that they love having Birch's there. He commented that he would like to call out the parking issue because the neighborhood is changing and there are a lot of kids that live on the street. He noted that parking on their street is pretty much chock full tonight and it is at the point where kids cannot be freely roaming around on the sidewalks. He stated that he hopes that the City can establish some kind of permit parking to address that issue.

Gretchen Cashmore, President of the Union Cemetery, indicated that they are currently working with Birch's on a contract for valet parking only use of the cemetery; though it will be for limited spaces because of her desire to uphold the integrity of the cemetery. They do not have an agreement with the rowing club to park there. She stated that she loves Birch's and wants to see them succeed, but wanted everyone to know that the parking in the cemetery will be for limited spaces.

There being no additional public comment, Chair Adams closed the public hearing.

Chair Adams reminded the residents that the Planning Commission is a recommending body and the City Council will make the final decision.

Commissioner Keating stated that his wife is very active in the rowing club and it is a bit scary going up and down the hill the way it is right now. He noted that he would support anything they can do to improve that. He commented that he also understands this is not the greatest marriage in the world and noted that the rowing club is trying to find a permanent home - if that were to go away, it would free up a lot of parking. Having a walkway, from a safety standpoint, is great. Regarding the other variance requests, the Commission needs to go by the rules.

Commissioner Secord voiced support for approving the walkway and steps, but denying the other requests.

Commissioner Secord moved to recommend the City Council adopt a Resolution approving a reduced request for additional impervious surface coverage for the steps and walkway only, and denying the requests for a setback variance for the proposed patio and a conditional use permit for expanded outdoor seating at the property located at 1310 Wayzata Boulevard W, subject to the four conditions included in the staff report. Commissioner Hughes seconded. Ayes: all.

OTHER BUSINESS

A. Council Liaison Report

Council member Feldmann highlighted some of the Council activities that have happened since the Commission last met in April.

B. Commission Member Business

Commissioner Hughes noted that August 7 will be Corn Days at the Church of St. George. Commissioner Secord stated that she hopes that the parade will be able to come back next year.

C. Staff Business

None.

ADJOURN

Hearing no objection, Chair Adams adjourned the meeting by general consent at 7:53 pm.

Respectfully submitted,

Scott Weske
City Administrator